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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/527,398	03/16/2000	Maximino Aguilar	AUS000147US1	1549

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EXAMINER

SURYAWANSHI, SURESH

ART UNIT PAPER NUMBER

2185

DATE MAILED: 11/01/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/527,398

Applicant(s)

AGUILAR ET AL.

Examiner

Suresh K Suryawanshi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 March 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 August 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. Claims 1-38 are presented for examination.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1-38 are rejected under 35 U.S.C. 102(e) as being anticipated by Godse (US Patent no 6,202,091 B1).

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4. As per claim 1, 10, 23, 32, 37, and 38, Godse teaches that the boot initiation element is capable of verifying the vintage of any file that direct the execution of the boot-up procedure [col. 4, lines 27-32]. If there exists a new version of the file either on a local resource or on the network, the file will be downloaded and it will replace the old one [col. 4, lines 39-51; col. 3, lines 20-35].

5. As per claims 2, 20, and 24, Godse teaches that the storage device is a non-volatile random access memory [col. 5, lines 54-55].

6. As per claims 3, 12, 25, and 34, Godse teaches that the operating system is stored on the storage device [inherent in the system].

7. As per claims 4 and 26, Godse teaches that the storage device is a removable storage device locally connected to the data processing system [inherent in the system as it mentions about local resource that may contain a hard disk drive, a floppy drive, a cd-rom drive, etc.; col. 3, lines 27-28].

8. As per claims 5 and 27, Godse teaches that loading the operating system using the current boot code if the updated boot code is absent [inherent in the system as loading of the operating system does not start until the boot-up procedure completes; col. 4, line 52].

9. As per claims 6 and 28, Godse teaches that replacing the current boot code with the updated boot code prior to loading the operating system [inherent in the system as loading of the operating system does not start until the boot-up procedure completes; col. 4, lines 39-52].

10. As per claims 7 and 29, Godse teaches that

Restarting the data processing system using the new current boot code [col. 8, lines 23-25; the system will restart booting with new code]; and

Loading the operating system using the new current boot code [inherent in the system as loading of the operating system does not start until the boot-up procedure completes; col. 4, line 52].

11. As per claims 8 and 30, Godse teaches that the updated boot code is present if a boot code is present on the storage device in which the boot code is a later version of the current boot code [inherent in the system].

12. As per claims 9 and 31, Godse teaches that the updated boot code is present if a boot code is located on the storage device [inherent in the system].

13. As per claims 11 and 33, Godse teaches that searching a local storage device for the updated boot code prior to loading the operating system [inherent in the system as a local resource will be checked for the latest version of the code; col. 3, lines 25-28].

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14. As per claims 13 and 35, Godse teaches that searching a storage device located remotely [inherent in the system as the network will be checked for the latest version of the code; col. 3, lines 25-28].

15. As per claims 14 and 36, Godse teaches that the storage device is located on a server [inherent in the system as the network will be checked for the later version of the code and a server will be on the network; col. 3, lines 25-28].

16. As per claim 15, Godse teaches that a data processing system comprising:

A bus [inherent in the system];

A first storage device connected to the bus [inherent in the system having a non-volatile RAM or a hard-disk];

A second storage device connected to the bus [inherent in the system having a non-volatile RAM or a hard-disk];

A processor unit connected to the bus [inherent in the system; col. 5, lines 56-62]; and  
Godse teaches that the boot initiation element is capable of verifying the vintage of any

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file that direct the execution of the boot-up procedure [col. 4, lines 27-32]. If there exists a new version of the file either on a local resource or on the network, the file will be downloaded and it will replace the old one [col. 4, lines 39-51; col. 3, lines 20-35].

17. As per claim 16, Godse teaches that updating of the current boot code instructions is performed by replacing the current boot code instructions in the first storage device with the updated boot code instructions in the second storage device [inherent in the system as the latest version will be downloaded from a second storage device located locally or on the network].

18. As per claim 17, Godse teaches that the processor unit loads the operating system using the current boot code instructions if updated boot code instructions are absent on the second storage device [inherent in the system as loading of the operating system does not start until the boot-up procedure completes; col. 4, line 52].

19. As per claim 18, Godse teaches that the updated boot code instructions are present if any boot code instructions are present on the second storage device [inherent in the system as the latest version will be searched on second storage device located locally or remotely].

20. As per claim 19, Godse teaches that the updated boot code instructions are present if a newer version of the current boot code instructions is present [inherent in the system].

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21. As per claim 21, Godse teaches that the second storage device is one of a removable non-volatile random access memory, a hard disk drive, a floppy disk, a CD-ROM, and a DVD-ROM [inherent in the system as these are well known storage devices].

22. As per claim 22, Godse teaches that the data processing system is a laptop computer, a palmtop computer, a personal computer, and a personal digital assistant [inherent in the system as these are well known computing devices].

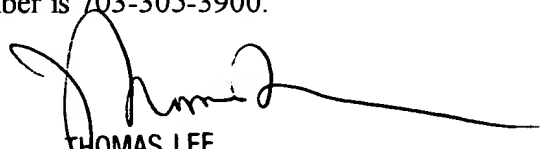
### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Suresh K Suryawanshi whose telephone number is 703-305-3990. The examiner can normally be reached on 9:00am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas C. Lee can be reached on 703-305-9717. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7239 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

sks  
October 24, 2002

  
THOMAS LEE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100